IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Bail Appl..No. 7535 of 2007()

CRIME NO. 712/07 OF KOTTARAKKARA POLICE STATION

PETITIONER : JUVENILE IN CONFLICT WITH LAW:

VIPIN, S/O. LATHA, MINOR, AGED 16 YEARS,
REPRESENTED BY HIS GUARDIAN AND MOTHER LATHA,
CHARUVILA PUTHEN VEEDU, PALLIKKAL MURI,
MYLAM VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, KOTTARAKKARA POLICE
STATION, KOLLAM DISTRICT THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7535 of 2007

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Dated this the 10th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable under Section 379 r/w. 34 I.P.C. The petitioner claims to be a juvenile, having not completed the age of 18 years on the date of the commission of the offence. He has produced before this Court Annex.I, which shows that the petitioner was born on 2.8.1991. The alleged incident had taken place on 26.9.2007.

2. The learned counsel for the petitioner submits that the petitioner is entitled to bail as a matter of right in view of the provisions of the Juvenile Justice (Care and Protection of Children) Act. The petitioner is also willing to appear before the Juvenile Justice Board/Principal Magistrate. But in as much as the prosecution has not filed any report before the Juvenile Justice Board, the petitioner is unable to surrender before the

Juvenile Justice Board. He is willing to offer any appropriate safeguards and is willing to comply with the conditions. He, a juvenile, may be spared of the risk of arrest and incarceration by the police, it is prayed.

3. The learned Prosecutor does not oppose the application. He further submits that the petitioner is not alleged to have any dominant role in the alleged theft. The other two miscreants had allegedly snatched the gold chain from the possession of the victim. The chain was allegedly handed over to the petitioner herein. Recovery has not been effected. Appropriate opportunity to question the petitioner may be given to the Investigator, submits the learned Prosecutor.

4. I am satisfied in the facts and circumstances of the case that subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

5. In the result:

(1) This application is allowed in part.

(2) The following directions are issued under Section 438 Cr.P.C.

a) The petitioner shall surrender before the Juvenile Justice Board/ Principal Magistrate on 17.12.2007 at 11 a.m. He may file application for regular bail after giving sufficient prior notice to the learned Prosecutor in charge of the case. Needless to say, it shall be open to the Investigator, if that be necessary, to make application before the learned Magistrate for opportunity to question the petitioner through an appropriate police officer as contemplated under the Juvenile Justice Act. The petitioner shall abide by the conditions to be imposed by the learned Magistrate. On or before that date, the police shall make appropriate report to the Juvenile Justice Board/Principal Magistrate.

(b) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 17.12.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(c) If the petitioner were arrested prior to his surrender on 17.12.2006 as directed in clause (1) above, he shall be released on his

executing a bond for Rs. 25,000/- without any surety undertaking to appear before the learned Magistrate on 17.12.2007.

(R. BASANT)
Judge

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